

**CITY OF FREDERICK
ZONING BOARD OF APPEALS
MEETING MINUTES
June 23, 2015**

MEMBERS PRESENT:	STAFF PRESENT:
Mr. Racheff Ms. Colby (Absent) Mr. Patchan Mr. Butcher Dr. Ying Mr. Aronow	Rachel Depo, Assistant City Attorney (Absent) Gabrielle Collard, Division Manager of Current Planning Jeff Love, City Planner (absent) Lea Ortiz, Office Manager

ANNOUNCEMENTS

For the benefit of the audience, Mr. Racheff, Chairman, introduced everyone by name and department and explained the Zoning Board of Appeals process.

APPROVAL OF MINUTES:

April 28 2015 ZBA Minutes

MOTION: Mr. Butcher moved to approve the April 28, 2015 hearing minutes as published.
SECOND: Dr. Ying
VOTE: 4-1. Mr. Aronow abstained.

ELECTION OF OFFICERS

Board of Elections of Chairman, Vice Chairman, and Secretary

MOTION: Mr. Patchan moved to continue the Election of Officers to the July 28, 2015 Zoning Board of Appeals hearing.
SECOND: Mr. Butcher
VOTE: 4-0

GENERAL PUBLIC COMMENT

There was no general public comment.

CASE TO BE HEARD

CASE NO.: ZBA15-357CU, Conditional Use
LOCATION: 351 Ballenger Center Drive
APPLICANT: Cathy Borten, Law Offices of M. Gregg Diamond, P.C.

Ms. Collard entered the Staff Report into the record for Jeff Love.

PUBLIC COMMENTS:

There was no public comment.

DISCUSSION:

Ms. Borten introduced everyone by name and company. There was discussion regarding the generator and Ms. Collard commented that the structure and electrical, along with any hazard material would have to go through the building permit review. Mr. Aronow wanted to know if the fence will be 7 feet or 6 feet as it was depicted on two different sheets. Applicant indicated it would be a 7-foot fence.

MOTION: Mr. Butcher moved to approve ZBA15-357CU finding that:

- 1) The proposed facility will not generate more noise, traffic, pollution, smoke, dust or other adverse impact on adjacent properties greater than that of uses permitted in the IST district, not requiring conditional use approval.
- 2) Based on the documentation supplied by the Applicant, the proposed equipment will not be a hazard to adjacent properties or constitute a nuisance because of radio interference or other potentially disruptive activity associated with the operation of the antenna.
- 3) The proposed facilities are located at greater distances from the property lines than the height of the facilities.
- 4) The documentation supplied by the Applicant demonstrates that there are no technically suitable spaces available on an existing communications towers within the geographic area that the new site is intended to serve.
- 5) Based on the photographs provided, the Applicant has demonstrated that the proposed communications antennas will not have an adverse impact on the historic vistas, City gateways or other significant City landmarks.
- 6) That, per the statement from the engineer the antennas proposed meet the radio frequency safety standards as established by the regulating agency for such antenna(s).
- 7) That the Applicant has provided approval from the property owner to locate the facilities on the property and the Applicant has agreed to the removal of the facility per the provisions of paragraph (13)(D) of Section 866(a).
- 8) That the Applicant has provided guarantees that the telecommunications facilities will comply with the applicable local, state, and federal rules and regulations.
- 9) The Applicant has filed an agent authorization letter signed by the A.C.E., LLC identifying its interest in the property and granting the Applicant permission to seek the conditional use.
- 10) The proposed telecommunications facility will exceed the maximum height permitted in residential zoning districts and has demonstrated that its appearance will make no substantial change to the area.
- 11) That the Applicant has fulfilled all of the public notice requirements mandated under Section 866(a)(13)(A-B).
- 12) That the Applicant has indicated that they will maintain the facility in good condition.
- 13) That the proposed telecommunications facility has been designed with the ability for co-location of one additional carrier.
- 14) That the Applicant has provided testimony indicating that co-location is not an acceptable solution to the issue and justifying the proposed site.
- 15) The Applicant is exempt from filing an FAA Form 7460-1, but will seek necessary confirmation from the Maryland Aviation Administration prior to building permit approval.

Approval is conditioned upon:

- 1) The Applicant must receive all necessary MAA approvals.**
- 2) In accordance with Section 312 of the LMC, *Zoning Board of Appeals Decisions*, the Applicant must receive a zoning certificate establishing the use within two years of the approval date or the approval shall become void.**

SECONDED: Mr. Patchan

VOTE: 4-0

The meeting adjourned at approximately 8:15 p.m.

Respectfully submitted,

Lea M. Ortiz